1979

WARRANT

for

SPECIAL TOWN MEETING

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NOVEMBER 14, 1979

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INDEX OF ARTICLES

FOR

1979 SPECIAL TOWN MEETING

Article	Content	Page No.
1.	Amend Dog Control By-Law	3
2.	Acquire Cutler Property	5
3.	Sell Cutler Property	8
4.	Mainstone - Modifications of Private Open Space	10
5.	Mainstone - Placing of Fill Over Septic Systems	14
6.	Dudley Pond Water Quality Study	16
7.	Gypsy Moth Control	18
8.	Enlargement of Minuteman School District	22

WARRANT FOR SPECIAL TOWN MEETING

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss. Town of Wayland

To any of the Constables of the Town of Wayland, in said County:

Greetings:

In the name of the Commonwealth you are required to notify and warn the inhabitants of said Town qualified to vote in Town affairs to meet in the High School Field House on

WEDNESDAY, NOVEMBER 14, 1979

at 7:45 P.M., then and there to act on the following articles:

ARTICLE 1. AMEND DOG CONTROL BY-LAW

PROPOSED BY: BOARD OF SELECTMEN

Article 1. To see if the Town will amend Article 7 of its By-Laws by adding the following new section thereto:

"C. Alternative Disposition of Violations

The Dog Officer, taking cognizance of a violation of Article 7 of these By-Laws, may, as an alternative to initiating criminal proceedings, initiate and pursue proceedings for the non-criminal disposition of such violation or violations in accord with the provisions of G. L. Chapter 40, Section 21D to the extent of the specific penalty provided therefor."

or take any action relative thereto.

COMMENTS: This Article proposes an amendment to the existing Dog Control By-Law in order to simplify the process of levying fines for violations.

At present, the Dog Officer must complete a prescribed form for each infraction. The completed form must be filed by a member of the Wayland Police Department at the Framingham District Court which, at some later time, sends a copy to the dog owner who must then pay the fine to the court in Framingham or seek a trial. The court ultimately remits all fines to the Town.

By means of the amendment, our Dog Officer would be authorized to write a notice at the time of the offense and present it or mail it directly to the dog owner. Thus, the dog owner will be informed of the matter promptly rather than long after the actual incident has been forgotten.

This amendment does not in any way change the rights of persons cited for dog infractions to appeal fines in the present manner. It is in accordance with provisions of G. L. Chapter 40, Section 21D, reprinted at the end of the Warrant at page 26.

RECOMMENDATIONS: The Finance Committee recommends approval of the Article.

ARTICLE 2. ACQUIRE CUTLER PROPERTY

PROPOSED BY: CONSERVATION COMMISSION

Article 2. To see if the Town will authorize the Conservation Commission to acquire by purchase, eminent domain, gift, or otherwise, for conservation and outdoor recreation purposes the fee or any lesser interest in a parcel of land off Erwin Road near Heard's Pond standing in the name of Marie L. Cutler, containing 15,041 square feet more or less shown on Plate No. 32 of the Town Atlas, as well as on a plan on file with the Town Clerk entitled "PLAN OF LAND IN WAYLAND MASS. SCALE: 1 IN. = 100 FT. DEC. 14, 1978 EVERETT M. BROOKS CO. CIVIL ENG'RS. NEWTONVILLE MASS." and more fully described as follows:

Lot A-5 Beginning at an iron pipe at land of the United States of America and land of the Town of Wayland, thence

S 86-26-24 E,	one hundred thirty-eight and 40/100 (138.40) feet, by land of the Town of Wayland, thence
N 24-44-35 W,	two hundred forty-six and 88/100 (246.88) feet to an iron pipe, thence
S 09-10-03 W,	two hundred eighteen and 41/100 (218.41) feet to the point of beginning.

together with any or all rights, title and interest of the owner or owners of the above-described premises in the streets and ways adjoining the same; to determine whether the Town will appropriate money therefor, to be provided by taxation, by appropriation from available funds, by borrowing under the provisions of Chapter 44 of the General Laws or otherwise; or take any action relative thereto.

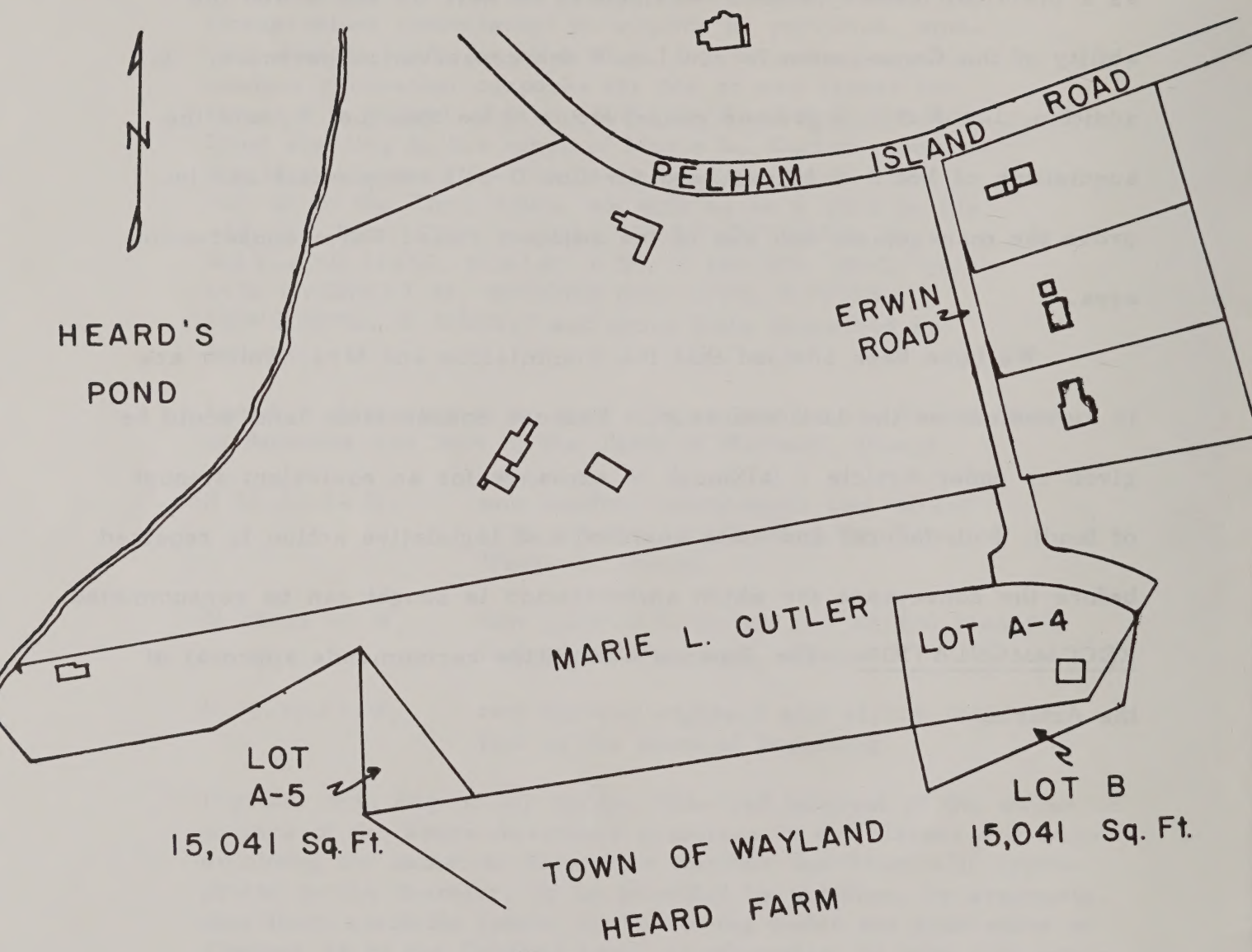
COMMENTS: The Conservation Commission recommends a swap of conservation land with land of equivalent area owned by Mrs. Marie Cutler, specifically Lot B for Lot A-5 as shown on the accompanying plan. Lot A-4 on the plan contains a residence. The current conservation

land, Lot B, is so close to the residence on Lot A-4 that the use of Lot B intrudes on the privacy of the residence. The closeness limits as a practical matter peoples' willingness to walk on Lot B and the ability of the Commission to use Lot B for conservation purposes. In addition, Lot A-5 has greater conservation value than Lot B, and the acquisition of Lot A-5 in exchange for Lot B will complement and improve the management and use of the adjacent Heard Farm conservation area.

We have been advised that the Commission and Mrs. Cutler are in agreement on the land exchange. Because conservation land would be given up under Article 3 (although in exchange for an equivalent amount of land), both federal and state approval and legislative action is required before the conveyance for which authorization is sought can be consummated.

RECOMMENDATION: The Finance Committee recommends approval of the Article.

ARTICLES 2 and 3



ARTICLE 3. SELL CUTLER PROPERTY

PROPOSED BY: CONSERVATION COMMISSION

Article 3. To see if the Town will authorize the Conservation Commission, with the approval of the General Court and of the Town Counsel as to form:

To sell, convey, abandon or otherwise dispose of to Marie L. Cutler a parcel of land at Erwin Road, originally acquired in 1972 from Sudbury Valley Trustees, Inc. for conservation purposes, containing 15,041 square feet more or less and shown on Plate 32 of the Town Atlas, as well as on a plan on file with the Town Clerk entitled "PLAN OF LAND IN WAYLAND MASS. SCALE: 1 IN. = 100 FT. DEC. 14, 1978 EVERETT M. BROOKS CO. CIVIL ENG'RS. NEWTONVILLE MASS." and more fully described as follows:

Lot B - Beginning at the most southerly corner of the parcel of land shown as Eliot Road on the above mentioned plan, thence

S 24-01-47 W,	one hundred eighteen and 09/100 (118.09) feet, thence
S 78-59-10 W,	two hundred sixty-seven and 74/100 (267.74) feet, thence
N 01-32-17 W,	eighty-two and 51/100 (82.51) feet, thence
S 86-26-24 E,	two hundred twenty-seven and 48/100 (227.48) feet, thence
N 43-30-52 E,	one hundred twenty-five and 00/100 (125.00) feet to the point of beginning;

and to authorize the Conservation Commission to file a bill in the General Court pursuant to the provisions of Article XLIX of the Articles of Amendment to the Constitution of Massachusetts to enable the Town to confer such authority upon the Commission;

or take any action relative thereto.

COMMENTS: The Finance Committee's comments for this Article will be found under Article 2.

RECOMMENDATION: The Finance Committee recommends approval of the Article.

ARTICLE 4. MAINSTONE - MODIFICATIONS OF PRIVATE OPEN SPACE

PROPOSED BY: BOARD OF SELECTMEN

Article 4. To see if the Town will authorize and approve modifications of the Private Open Space specified in the Conservation Restriction granted to the Town by Devens H. Hamlen et al, dated June 24, 1977, recorded with Middlesex South District Registry of Deeds in Book 13357, Page 629, and registered with Middlesex South Registry District as Document No. 565251, by from time to time releasing portions of said Private Open Space and substituting therefor equivalent areas of new Private Open Space; and will authorize the Conservation Commission and the Board of Selectmen from time to time to do all such acts and things as may be lawfully necessary or appropriate to effect such modification, including the petitioning of the General Court for adoption of such votes or enactment of such laws, if any, as may be necessary thereto; or take any action relative thereto.

COMMENTS: This Article was inserted in the Warrant by the Board of Selectmen to see if the Town will authorize the Conservation Commission and the Board of Selectmen to approve modifications in the boundaries of the Private Open Space in the Mainstone Development by releasing from time to time portions of the areas designated as Private Open Space and substituting therefor equivalent areas of new Private Open Space. The Article further seeks to authorize the Conservation Commission and the Board of Selectmen to take all necessary lawful steps to accomplish such action, including the petitioning of the General Court for the enactment of any necessary legislation which may be required to accomplish the foregoing.

The need for and the desirability of this authority for the

Conservation Commission and the Board of Selectmen has been recommended and agreed to by the Board of Selectmen, Conservation Commission, and the Zoning Board of Appeals and reflects their conclusion that the flexibility to make these adjustments was intended at the time of the original grant of the Private Open Space area to the Town.

The history of this matter is complicated but may be summarized as follows:

The total acreage in the Mainstone Development was divided into three categories as a part of the issuance of the Special Permit under the Town's Planned Development By-Law. Roughly one-third of the land was to be conveyed to the Town as "Public Open Space." This land is to be held as conservation land available for the use of all citizens of the Town. Another one-third of the land was to be subject to a conservation restriction which would prevent the Developer from making any improvements on the land inconsistent with the use of the land as open space. The use of the land would, however, be restricted to the owners of the condominium units at Mainstone. This land is referred to as "Private Open Space." The remaining one-third of the land would be used for the actual building sites, roads, and the land which immediately surrounds the housing units themselves.

At the time of the issuance of the Special Permit and the conveyance of the Public Open Space and the conservation restrictions on the Private Open Space to the Town, the Planning Board and the Board of Selectmen, on advice of Town Counsel, required that the Public Open

Space and the Private Open Space be described by metes and bounds throughout the entire Mainstone Development. Since the planning necessary for the determination of the final location of the boundaries between the building space and the Private Open Space had not been done, it was intended by all parties that there would later be adjustments in these boundaries as each of the phases of the Mainstone Development took place. While discussion among the Developer, the various Town Boards, and Town Counsel took place on the subject of the specific mechanism for making these adjustments, the Developer was proceeding on the assumption that the Board of Selectmen and the Conservation Commission, the two agencies of the Town that would pass on any such adjustments, had the authority to do so under a State statute. Subsequently, Town Counsel advised the Board of Selectmen that any adjustments would have to be approved by an Act of the Legislature, citing a provision of the Massachusetts Constitution. As this is a slow and cumbersome procedure, the Developers have sought relief in two ways. First, they have brought a suit which would, if completed, decide the legal question of whether or not the Board of Selectmen and Conservation Commission had the requisite authority without an Act of the Legislature. In addition, the Board of Selectmen have encouraged the Developer to file this Article, which would permit the Board of Selectmen to file the necessary Bill in the Legislature to clarify the matter. Since the second and subsequent phases of the Mainstone

Development are hampered because of this problem, the Developers are anxious to have a resolution of the question. A decision of the Supreme Judicial Court of the Commonwealth may take much longer than the Act of the Legislature, and thus the Selectmen have agreed to put this Article in the Warrant to expedite the resolution of the matter through the legislative route.

The action contemplated under this Article does not change the scope of the authority or the powers of the Board of Selectmen and the Conservation Commission with respect to the substantive question of when and how adjustments in the boundaries of the Private Open Space will be made. It is merely to clarify that these two Boards have the power to do so, a result which had been intended from the outset of the Mainstone Development by all interested parties and Town Boards and Commissions.

RECOMMENDATION: The Finance Committee recommends approval of the Article.

ARTICLE 5. MAINSTONE - PLACING OF FILL OVER SEPTIC SYSTEMS

PROPOSED BY: BOARD OF SELECTMEN

Article 5. To see if the Town will authorize the Conservation Commission to approve the placing of loam, peat, soil, subsoil, or other mineral substance in connection with one installation of underground sewage disposal facilities which are otherwise approved by the Conservation Commission pursuant to provisions of (a) the Conservation Restriction granted to the Town by Devens H. Hamlen et al, dated June 24, 1977, recorded with Middlesex South District Registry of Deeds in Book 13357, Page 629, and registered with Middlesex South Registry District as Document No. 565251, or (b) the Deed of Devens H. Hamlen et al to the Town, dated June 24, 1977, recorded with said Registry of Deeds in Book 13357, Page 620, and registered with said Registry District as Document No. 565248; and will authorize the Conservation Commission and the Board of Selectmen from time to time to do all such acts and things as may be lawfully necessary or appropriate to effect such authorization, including the petitioning of the General Court for adoption of such votes or enactment of such laws, if any, as may be necessary thereto; or take any action relative thereto.

COMMENTS: This Article was inserted in the Warrant by the Board of Selectmen to see if the Town will authorize the Conservation Commission to approve the placing of fill over septic systems to be constructed in the Mainstone Development on Private Open Space and, in certain cases, on Public Open Space. See the Comments under Article Four of this Warrant for a description of these terms. The septic systems in the Mainstone Development are to be constructed entirely on either the Private Open Space or the building area itself. In some cases, however, the construction of the septic fields on Private Open Space have

caused the Board of Health to require that the slope of adjacent land located in the Public Open Space be modified.

The requirement for making adjustments of this sort was contemplated at the time of the issuance of the Special Permit to the Mainstone Developer and was reflected in language of the deeds which granted the Public Open Space and the conservation restriction on the Private Open Space to the Town. The Conservation Commission has the authority to either grant or deny requests for making such changes. Such changes were requested and granted in certain instances in the construction of the second phase of Mainstone. However, a question has arisen as to the interpretation of the language in the two deeds with respect whether and to what extent any change in the surface of the land may be made in connection with the installation of septic systems. A second question has arisen as to the authority of the Conservation Commission to approve or deny requests to make such changes in the surface of the land.

The Article seeks to authorize the Conservation Commission and the Board of Selectmen to approve the modifications described and further to take all necessary lawful steps to accomplish such action, including petitioning the General Court to enact necessary legislation.

All of the Boards having an interest in this matter, including the Board of Selectmen, the Conservation Commission, and the Planning Board have considered the matter and are in favor of this Article.

RECOMMENDATION: The Finance Committee recommends approval of the Article.

ARTICLE 6. DUDLEY POND WATER QUALITY

PROPOSED BY: SURFACE WATER QUALITY STUDY COMMITTEE

ESTIMATED COST: $10,000

Article 6. To see if the Town will appropriate a sum of money for watershed studies and weed control in Dudley Pond; to determine whether such appropriation shall be provided by taxation, by appropriation from available funds, by transfer of funds already appropriated for another purpose, or received as grants from the Commonwealth of Massachusetts or Federal Government, by borrowing under the provisions of Chapter 44 of the General Laws or otherwise; and to determine whether the Surface Water Quality Study Committee established by the Board of Selectmen on May 29, 1979 shall be authorized to expend the money appropriated therefor; or take any action relative thereto.

COMMENTS: This Article calls for an appropriation to permit the Committee to employ an environmental consultant to diagnose water quality problems in Dudley Pond and to prepare a grant application to the State for funds to, hopefully, cure the problems. In addition, if warranted, the appropriation will also be used for interim weed control. Currently, the Pond appears to suffer from excess algae and weed growth, and on occasions, there has been a significant fish die off. If the problems are not eliminated, the Committee believes they will gradually, over many years, result in the transformation of the Pond to a swamp. The consultant will conduct water sample tests of storm waters draining into the Pond, of springs, and of bottom water. The appropriation is needed now to engage the consultant to begin sampling prior to the spring flood period; the grant application must be filed in the spring to coincide with the State funding cycle beginning next summer. In the event the studies

indicate that a "quick fix" for weed control is necessary, the Committee will spend some portion of the appropriation for that treatment.

If a grant is ultimately awarded by the State, the Town will be expected to supply 25% of the funds for the project with the State providing 75%. That contribution by the Town will require a subsequent Town Meeting vote; the consultant's fees contemplated under this Article may be applied towards the Town's 25% contribution.

RECOMMENDATION: The Finance Committee recommends approval of the Article.

ARTICLE 7. GYPSY MOTH CONTROL

PROPOSED BY: PARK & RECREATION COMMISSION

ESTIMATED COST: $52,575

Article 7. To see if the Town will appropriate a sum or sums of money for suppressing pests under G. L. Chapter 132; to determine whether such appropriation shall be provided by taxation, by appropriation from available funds, by transfer of funds already appropriated for another purpose, or received as grants from the Commonwealth or Federal governments, by borrowing under the provisions of Chapter 44 of the General Laws or otherwise; and to determine what Town officer, board or committee or combination of them shall be authorized to expend the money appropriated therefor; or take any action relative thereto.

COMMENTS: The Park and Recreation Commission is seeking an appropriation of $52,575 for a one-time aerial spraying of selected areas of the Town in late spring, 1980, in order to control the gypsy moth infestation. Different areas of the Town will be covered during a two to four-day period. Chapter 132, Section 25 of the General Laws of the Commonwealth declares gypsy moths to be a "public nuisance" and gives localities the right to use lawful means to suppress them.

This proposal is the end-result of a process undertaken by the Commission to develop a recommendation to the Town in response to the public concern about the gypsy moth infestation. In late summer, 1979, the Commission named an Ad Hoc Gypsy Moth Study Committee consisting of eight volunteers, including a representative of the Conservation Commission. The Ad Hoc Committee, working against an October 1 deadline, investigated the nature and extent of the gypsy moth infestation,

the possible methods of control, and data from other towns, states and government agencies. The Committee's full report is available at the Town Libraries and at the Town Building.

The report indicates that the gypsy moth has been present in Massachusetts since 1869 and has been a chronic problem for these 110 years. The moth is always present in some degree within a community and under certain conditions the number of moths and caterpillars increases vastly. While the long-term effect of the caterpillars on trees in an undeveloped forest may not be a cause for concern, the short-term effect on treed and landscaped residential areas raises great anxieties. Evergreens are, in general, less able to withstand the caterpillar attack than deciduous trees. There is general agreement that the gypsy moths create an extreme public nuisance.

An on-the-spot survey of the Town in 41 locations in September provided egg mass counts that indicate a potential for the hatching of ten times more caterpillars during the spring of 1980 than were present this past year. Counts in the Town range from 0 to 13,000 per acre. The average in Wayland is now 3,000 egg masses per acre. Egg mass counts of 1100 per acre may result in severe defoliation.

Several methods of control are open to us given the level of infestation. There is the built-in control exercised by nature when overpopulation results in an insufficient food supply, weakness of the caterpillars and subsequent inability to withstand the stomach virus always

present. It can take from three to eleven years for this natural cycle to occur. Beyond this, there are the alternatives of spraying trees with chemical pesticides which the caterpillars ingest as they consume leaves, or spraying with a bacterial insecticide which, by the same path, will infect the caterpillars and kill them. The highly predictable effect of a chemical insecticide averages 76% to 95% destruction. The effect of the bacterial insecticide ranges from 50% to 76%. Chemical insecticides such as those appropriate for gypsy moths may also kill other organisms, such as honey bees and butterflies. The bacterial insecticide is toxic to butterflies and moths. Interpretations vary concerning the environmental and public health effects of different control methods.

The Ad Hoc Committee report to the Commission recommends aerial spraying this spring with a chemical insecticide in order to reduce the expected caterpillar population, it is estimated, by approximately 90%. In 1981 and thereafter, it should be possible to manage the remaining caterpillar population by non-chemical means.

Two specific insecticides are under consideration: Sevin (carbaryl) and Dylox (trichlorfon). Both these substances, as well as the bacterial insecticide, are approved for use against gypsy moths by the U. S. Environmental Protection Agency and the Pesticide Board of the Massachusetts Food and Agriculture Department. The Ad Hoc Committee is continuing its investigations to determine which insecticide it will recommend to the Park and Recreation Commission. Further details of this

aspect of the program will be presented at Town Meeting.

A minority report by three members of the Ad Hoc Committee recommends aerial spraying with bacterial insecticide limited to approximately 2500 developed acres in the Town. In addition, ground spraying with a chemical insecticide is recommended for individual properties which have suffered serious damage.

The Commission feels that use of the bacterial insecticide this year will not provide adequate control in view of the extent of the infestation.

The complete program being proposed by the Commission carries forth the recommendation of the majority of the Ad Hoc Committee and provides a project to include:

* One-time spraying by helicopter of chemical insecticide over 6000 acres of the Town to take place the first part of May, 1980 on two to four-days from dawn to early morning.
* No spraying of certain conservation lands, bodies of water, farm fields, and open areas.
* Self-help program to be described to the Town.
* On-going communication to ensure that all residents thoroughly understand all aspects of the program.
* Planning to continue for follow-up control measures in 1981.

RECOMMENDATION: The Finance Committee recommends approval of the Article.

ARTICLE 8. ENLARGEMENT OF MINUTEMAN SCHOOL DISTRICT

PROPOSED BY: WAYLAND'S MINUTEMAN SCHOOL COMMITTEE MEMBER UPON THE REQUEST OF THE COMMITTEE

Article 8. To see if the Town will vote to accept an amendment to the agreement establishing the Minuteman Regional Vocational Technical School District ("Minuteman") as proposed by vote of the Minuteman School Committee by vote adopted on February 20, 1979, providing for the admission of new member towns generally and the Towns of Bolton, Dover, Lancaster, and Needham specifically.

COMMENTS: This Article was inserted in the Warrant by Wayland's member of the Minuteman Regional Vocational Technical School Committee. The purpose of the Article is to see if the Town will approve the admission of four specific new towns to the Minuteman School District and in general to provide for the membership of additional towns in the future. This will be accomplished by an amendment to the formal agreement establishing the district. The proposed amendment begins on page 29 of the Warrant.

Wayland was among the original twelve towns to comprise the district. The other eleven were Acton, Arlington, Belmont, Boxborough, Carlisle, Concord, Lexington, Lincoln, Stow, Sudbury, and Weston. The Minuteman School, having started in the fall of 1974, is now in its sixth year. The present enrollment is 1189 students and, although the projection for the next year or two is for a steady enrollment, the school will soon be experiencing the same sharp enrollment declines that are now affecting the lower grades in the member towns. It is presently forecasted, based on current local population data, that Minuteman

enrollment in 1984-85 could drop below 850 students.

In order to offset this decline, the Minuteman School Committee is proposing through this Article, to expand the number of member towns in general, and specifically at this time by the addition of Bolton, Dover, Lancaster, and Needham. All current twelve member towns must vote on the same proposal. At the time of this writing, the towns of Acton, Belmont, Concord, Sudbury, and Weston have passed the appropriate articles at their respective town meetings. Three of the proposed new member towns, Bolton, Lancaster, and Needham have also voted approval.

At the present time, many non-member towns send students to the Minuteman School on a tuition basis. There are 189 such students in the current school year. The tuition is $2,800 per student, plus transportation costs. This figure is based on a pro-rata allocation of the school's operating costs. The member town per pupil assessment at present is $2,759.

The amendment provides that in the first year the new member towns will pay only the then current tuition rate. Beginning with its second year of membership, a new member town will pay its share of the regular operating costs of the school in proportion to its share of member town enrollment. In addition, in its second through eleventh years of membership a new member town will also pay a surcharge of $400 per pupil in lieu of original capital costs. The figure of $400 was

derived by spreading the original net local capital contribution over a ten year period and dividing by the recent average enrollment.

The primary advantage of enlarging the membership of the district is to provide for the efficient operation of the Minuteman School during a period of declining population among school age children. By expanding the member town base, per pupil costs have a better chance of being confined and the School can afford to maintain its current course offering.

RECOMMENDATION: The Finance Committee recommends approval of the Article.

You are required to serve this Warrant by posting copies thereof, attested by you, at the Town Building, at the public libraries in Cochituate and in Wayland Center, fourteen days at least, before the time of holding said meeting.

Hereof, fail not and make due return of this Warrant with your doings thereon to the Town Clerk on or before October 30, 1979.

Given under our hands and seal this twenty-second day of October in the year one thousand nine hundred and seventy-nine.

L. THOMAS LINDEN
W. H. IRVINE
CATHERINE W. SEILER
MARCIA P. CROWLEY
HERBERT N. ODELL, JR.

Selectmen of the Town of
Wayland

WILLIAM G. SEGAL
BERNICE B. SAMELSON
ROBERT S. SWAIN, JR.
JONATHAN STRONG
EDWARD WOLL
KAREN E. BROTHERS
PAUL F. FOSKETT

Finance Committee

REFER TO ARTICLE 1

Chapter 40, Section 21D.

Noncriminal disposition of ordinance, by-law, or municipal rule and regulation violations; notice to appear; payment of fine or appearance at hearing; disposition upon hearing or failure to appear.

Any town may by ordinance or by-law not inconsistent with this section provide for noncriminal disposition of violations of any ordinance or by-law or any rule or regulation of any municipal officer, board or department the violation of which is subject to a specific penalty.

Any such ordinance or by-law shall provide that any person taking cognizance of a violation of a specific ordinance, by-law, rule or regulation which he is empowered to enforce, hereinafter referred to as the enforcing person, as an alternative to initiating criminal proceedings shall, or, if so provided in such ordinance or by-law, may, give to the offender a written notice to appear before the clerk of the district court having jurisdiction thereof at any time during office hours, not later than twenty-one days after the date of such notice. Such notice shall be in triplicate and shall contain the name and address, if known, of the offender, the specific offense charged, and the time and place for his required appearance. Such notice shall be signed by the enforcing person, and shall be signed by the offender whenever practicable in acknowledgement that such notice has been received.

The enforcing person shall, if possible, deliver to the offender a copy of said notice at the time and place of the violation. If it is not possible to deliver a copy of said notice to the offender at the time and place of the violation, said copy shall be mailed or delivered by the enforcing person, or by his commanding officer or the head of his department or by any person authorized by such commanding officer, department or head to the offender's last knownaddress, within fifteen days after said violation. Such notice as so mailed shall be deemed a sufficient notice, and a certificate of the person so mailing such notice that it has been mailed in accordance with this section shall be prima facie evidence thereof.

At or before the completion of each tour of duty, or at the beginning of the first subsequent tour of duty, the enforcing person shall give to his commanding officer or department head those copies of each notice of such a violation he has taken cognizance of during such tour which have not already been delivered or mailed by him as aforesaid. Said commanding officer or department head shall retain and safely preserve one copy and shall, at a time not later than the next court day after such delivery or mailing, deliver the other copy to the clerk of the court before which the offender has been notified to appear. The clerk of each district court and of the Boston

municipal court shall maintain a separate docket of all such notices to appear.

Any person notified to appear before the clerk of a district court as hereinbefore provided may so appear and confess the offense charged, either personally or through a duly authorized agent or by mailing to such clerk with the notice such specific sum or money not exceeding two hundred dollars as the town shall fix as penalty for violation of the ordinance, by-law, rule or regulation. Such payment shall if mailed be made only by postal note, money order or check. The payment to the clerk of such sum shall operate as a final disposition of the case. An appearance under this paragraph shall not be deemed to be a criminal proceeding. No person so notified to appear before the clerk of a district court shall be required to report to any probation officer, and no record of the case shall be entered in any probation records.

If any person so notified to appear desires to contest the violation alleged in the notice to appear and also to avail himself of the procedure established pursuant to this section, he may, within twenty-one days after the date of the notice, request a hearing in writing. Such hearing shall be held before a district court judge, clerk, or assistant clerk, as the court shall direct, and if the judge, clerk, or assistant clerk shall, after hearing, find that the violation occurred and that it was committed by the person so notified to appear, the person so notified shall be permitted to dispose of the case by paying the specific sum of money fixed as a penalty as aforesaid, or such lesser amount as the judge, clerk or assistant clerk shall order, which payment shall operate as a final disposition of the case. If the judge, clerk, or assistant clerk shall, after hearing, find that violation alleged did not occur or was not committed by the person notified to appear, that finding shall be entered in the docket, which shall operate as a final disposition of the case. Proceedings held pursuant to this paragraph shall not be deemed to be criminal proceedings. No person disposing of a case by payment of such a penalty shall be required to report to any probation office as result of such violation, nor shall any record of the case be entered in the probation records.

If any person so notified to appear before the clerk of a district court fails to pay the fine provided hereunder within the time specified or, having appeared, does not confess the offense before the clerk or pay the sum of money fixed as a penalty after a hearing and finding as provided in the preceding paragraph, the clerk shall notify the enforcing person who issued the original notice, who shall determine whether to apply for the issuance of a complaint for the violation of the appropriate ordinance, by-law, rule or regulation.

Chapter 41, Section 21D, cont.

As used in this section the term "district court" shall include, within the limits of their jurisdiction, the municipal court of the city of Boston and the housing courts of the city of Boston and the county of Hampden.

The notice to appear provided for herein shall be printed in such form as the chief justice of the municipal court of the city of Boston shall prescribe for said court, and as the chief justice of the district courts shall prescribe for the district courts. Said notice may also include notice of violations pursuant to section eleven C of chapter eighty-five, sections eighteen A, twenty A or twenty C of chapter ninety and section sixteen A of chapter two hundred and seventy. Any fines imposed under the provisions of this section shall be distributed in accordance with section two of chapter two hundred and eighty.

Added by St. 1977, c. 401, #2.

REFER TO ARTICLE 8

AMENDMENT NO. 2 TO THE AGREEMENT ESTABLISHING THE MINUTEMAN REGIONAL VOCATIONAL TECHNICAL SCHOOL DISTRICT

The agreement among the towns of Acton, Arlington, Belmont, Boxborough, Carlisle, Concord, Lexington, Lincoln, Stow, Sudbury, Wayland, and Weston entitled "Agreement with Respect to the Establishment of a Technical and Vocational Regional School District," as heretofore amended (the "Agreement") is hereby further amended as follows:

A. Subsection I(C) of the Agreement is amended by deleting the second sentence thereof and substituting in its place the following three sentences:

> The moderator of each town that shall be admitted to the District pursuant to Section VIII of this Agreement shall, prior to the date on which such admission takes effect, appoint one member to serve on the Committee beginning on such date for a term of three years, measured from the April 1 next preceding such date, or for such shorter term, measured from such April 1, as may be necessary to retain symmetry of terms on the Committee as a whole. Prior to the date on which the admission of one or more new member towns is to become effective, the Committee shall determine (by lot, if there is more than one such town) the initial term of the member appointed by the moderator of each such town, unless such initial term is specified in this Agreement. In every year in which the term of office of a member expires, the moderators of the respective member towns shall each appoint one member to serve for a term of three years.

B. Section VIII of the Agreement is amended to read:

> By an amendment of this Agreement adopted under and in accordance with Section VII above, any other town or towns may be admitted to the regional school district. The effective date for the admission of each such new member town shall be the July 1 following the adoption by the District of such an amendment and the acceptance by the town of this Agreement as so amended. Such admission also shall be subject to compliance with such provisions of law as may be applicable and such terms as may be set forth in such amendment.

C. Section IV of the Agreement is amended by adding at the end thereof the following additional subsection:

(H) Apportionment of Costs to New Member Towns. Except as otherwise provided in this subsection, capital costs and operating costs shall be apportioned in accordance with Subsections IV(D), (E) and (F) to towns admitted to the District pursuant to the provisions of Section VIII. In the first fiscal year in which the admission of a new member town is effective, the town shall pay as its share of the capital costs and operating costs for such fiscal year, an amount equal to what the town would pay if the pupils from the town enrolled in the regional district school were tuition pupils. After the first fiscal year in which the admission of a new member town is effective, the town's share of capital costs and operating costs shall be determined in accordance with Section IV of this Agreement except that such share shall not include any capital costs on account of the bonds issued by the district dated March 1, 1973 and March 1, 1974. However, commencing in the second fiscal year in which such town is a member and continuing through the eleventh such fiscal year, in lieu of such capital costs and as partial reimbursement to the other member towns for their payment of capital costs on account of the original regional district school building, such town shall pay as part of its share of capital costs an annual surcharge of $400 per pupil enrolled from such town in the regional district school on October 1 of the next preceding fiscal year. If on such October 1, there is an enrollment of less than five pupils from such town in the regional district school, such member town shall be deemed to have an enrollment of five pupils in the regional district school. The Committee shall determine the amount necessary to meet the annual operating and maintenance budget and shall allocate such amount among the member towns without taking such surcharge into account. After making such allocation, the Committee shall apply the amount of such surcharge to reduce the shares of capital and operating costs of the member towns which are not then required to pay such surcharge, in the same proportion as capital costs are allocable among such towns pursuant to Section IV of this Agreement. For the purposes of Section IX of this Agreement, if a new member town shall withdraw from the District prior to the twelfth year of its membership, such surcharge shall be deemed to be part of the town's share of the indebtedness of the District outstanding at the time of its withdrawal.

D. Subsection V(C) of the Agreement is amended by adding thereto the following sentence:

> If the amount necessary to meet the annual operating and maintenance budget for a fiscal year in which the admission of one or more new member towns becomes or is to become effective, shall have been determined and apportioned without regard to the payments to be received from any such member town as its share of the capital and operating costs of the District, the Committee may reopen the budget, may redetermine the amounts necessary to meet the budget taking account of such payments, and may reapportion such amounts among the other member towns in accordance with the provisions of Section IV; provided, however, that the shares of such amounts reapportioned to the member towns (other than such new member towns) shall be less than the amounts previously apportioned to such towns.

E. Section VI of the Agreement is amended by adding at the end thereof the following sentence:

> During the first fiscal year in which the admission pursuant to Section VIII of a new member town is effective, such town shall be responsible for providing school transportation for pupils from the town enrolled in the regional district school and for paying the costs of such transportation.

F. The first sentence of the Agreement is amended to read:

> This Agreement is entered into pursuant to Chapter 71 of the General Laws of Massachusetts, as amended, among the towns of Acton, Arlington, Belmont, Boxborough, Carlisle, Concord, Lexington, Lincoln, Stow, Sudbury, Wayland and Weston and, in accordance with the provisions of Section VIII, such of the Towns of Bolton, Dover, Lancaster, and Needham as shall accept this Agreement, hereinafter referred to as member towns.

G. Effective Date of Amendment No. 2. Amendment No. 2 to the Agreement, proposed by vote of the Committee adopted on February 20, 1979, shall take effect upon its acceptance by the member towns and upon the acceptance of the Agreement, as heretofore amended and as further amended by this Amendment No. 2, on or before June 30, 1981 by any one or more of the Towns of Bolton, Dover, Lancaster, and Needham; provided, however, that the admission of any such town shall not be effective prior to July 1, 1980.

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Board of Selectmen
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